

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

William C. McKinney, III, #256024,

Plaintiff,

vs.

C.A. No. 6:08-3169-HMH-WMC

OPINION & ORDER

Mrs. Cecil Reynolds, Warden at Kershaw
Correctional Institution;

Mr. Robert (Bob) E. Ward, Regional
Director; Jon E. Ozmint, Director
of SCDC; Mark Sanford; Henry Dargon
McMaster, Attorney General; Barton Jon
Vincent, Staff Attorney;

Ms. Mary Coleman, Grievance Branch
Chief; Ms. Sandra Bowie, Grievance
Branch Assistant; Ms. A. Hardin,
Grievance Clerk; Mrs. A. Sellers,
DHO Captain; Jerome Armstrong;
Counsel Substitute; Mr. Sylvesta
Robinson, Investigator; James Wakeley;
Contraband- Cpl./Sgt.; NFN Beckwith,
Associate Warden for Security;

James Baytes, Commissary;
Robert (Bob) Huggins, Commissary;
Jerry Washington, Major/Asso. Warden;
T. Smith, Lt. of the Oak Unit;
Mrs. Audrey Price, Contraband Sgt. of
Palmetto; NFN Seward, Capt./Major;
NFN Dubose, Capt.; Mrs. Patricia
Caudle, Officer at Medical;
David M. Tatarsky, Staff Attorney;
Robert (Bob) Wesley Jacobs,
Staff Attorney; Oscar A. Faulkenberry,
Warden/Retired, Captain NFN Thomas,
Kershaw Correctional Institution;
Daniel Murphy, Inspector General of
SCDC; Ms. Linda Martin, OPNS,
Secretary, General Counsel, SCDC's

Headquarters; Mr. Dennis Patterson,)
SCDC General Counsel Office,)
)
Defendants.)

This matter is before the court with the Report and Recommendation of United States Magistrate Judge William M. Catoe, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.¹ William C. McKinnedy (“McKinnedy”), a state prisoner proceeding pro se, filed a civil rights action under 42 U.S.C. § 1983. In his Report, Magistrate Judge Catoe recommends granting the Defendants’ motion for summary judgment.

McKinnedy filed objections to the Report and Recommendation. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that McKinnedy’s objections are non-specific, unrelated to the dispositive portions of the magistrate judge’s Report and Recommendation, or merely restate his claims. McKinnedy filed voluminous objections that merely restate his claims or are non-

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1) (2006).

specific. The court has conducted a de novo review of the second amended complaint and concludes that the magistrate judge has properly recited the facts and applied the law. Magistrate Judge Catoe thoroughly addressed all of McKinnedy's claims and correctly concluded that McKinnedy has failed "to state any claim of constitutional magnitude." (Report and Recommendation 22.) McKinnedy has failed to set forth any arguments that cast doubt on the magistrate judge's recommendations and the court will not address those issues a second time. Accordingly, after review, the court finds that McKinnedy's objections are without merit. Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Catoe's Report and Recommendation and incorporates it herein by reference with one exception. Magistrate Judge Catoe recommended that the dismissal of this case count as a "strike." (Report and Recommendation 22.) However, this case is not deemed a "strike" pursuant to 28 U.S.C. § 1915(g) because this action was "dismissed upon a grant of summary judgment to the Defendants." Bennett v. Cannon, No. 06-6986, 2006 WL 3360742, at *1 (4th Cir. Nov. 20, 2006) (unpublished).

It is therefore

ORDERED that the Defendants' motion for summary judgment, docket number 102, is granted. It further

ORDERED that any pending nondispositive motions are dismissed as moot.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
February 4, 2010

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.